

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, OCTOBER 8, 1998

Acting-Chairman Forrest called the meeting to order at 1:30 p.m. at the Silverdale on the Bay Hotel. He introduced the members of the Commission and the staff present.

MEMBERS PRESENT: **MARSHALL FORREST**, Vice Chair; **EDWARD HEAVEY**; **CURTIS LUDWIG**, and **PATRICIA L. HERBOLD**; and Ex Officio Member **SENATOR MARGARITA PRENTICE**

OTHERS PRESENT: **BEN BISHOP**, Executive Director; **SHERRI WINSLOW**, Deputy Director of Operations; **ED FLEISHER**, Deputy Director of Policy and Government Affairs; **CALLY CASS-HEALY**, Assistant Director of Field Operations; **DERRY FRIES**, Assistant Director of Licensing Operations; **BOB BERG**, Assistant Director, Special Operations; **AMY PATJENS**, Public Affairs Manager; **JONATHAN McCOY**, Assistant Attorney General; and **SUSAN YEAGER**, Executive Assistant

LICENSE APPROVALS

NEW LICENSES, CHANGES, AND TRIBAL CERTIFICATIONS

Commissioner Herbold moved that the Commission approve the new licenses, changes, and tribal certifications as listed in the agenda pages one through nineteen; **Commissioner Heavey** seconded the motion. *Vote taken; motion carried with four aye votes.*

REVIEW OF FRIDAY'S AGENDA

Ms. Patjens announced one change in the agenda under Item 5, Card Room Contracts, under Appendix C for the house-banking program, River Bend in Spokane, will not be heard today. She said Ms. Winslow will give a staff report on Friday regarding how many people are interested in the pilot program and who made the September 18, 1998, cut-off to submit an application and a \$10,000 refundable deposit.

Ms. Patjens said there are six rules up for final action tomorrow. The first one would allow charities to buy bingo paper on credit. The second set of rules is a fee reduction consisting of four rules. It also provides that a refund be given to anyone who has paid the new amounts effective June 30, 1998. The last rule up for final approval is a rule that would increase the prize limits on pull tab games from \$500 to \$750. There are 17 rules up for discussion that were filed after the last Commission meeting. The first one deals with record keeping requirements for pull tab games with carry-over jackpots and then the next set of rules are titled "location of bingo games," but that really should be "joint bingo games." Those 16 rules would authorize joint bingo. There are also licensing rules to license the providers as well as distributor representatives, et cetera.

MANUFACTURER REVIEW

MASQUE PUBLISHING, INC., Englewood, Colorado

Mr. Fries said Masque Publishing, Inc, has applied for a license as a Class B manufacturer. Masque owns the patent rights to Spanish 21, a blackjack derivative, and is seeking to market the game in the state's enhanced card rooms. The organization holds gambling licenses in Nevada, Mississippi, Iowa and Missouri. On July 30, 1998, the agents from the Commission began an investigation and review of corporate and financial records.

Procedures were performed to detect possible undisclosed ownership, unreported officers or directors and undisclosed interests in other companies. No disqualifying information was discovered. In addition, criminal and personal background checks were performed on all substantial interest holders and no adverse information was found. The start-up costs for the corporation was verified and appears to be sufficient. Based upon their investigation the staff recommends the certification of Masque Publishing, Inc. as a Class B manufacturer. The corporate officers, James Wisler and Donna Adam, were present.

Commissioner Heavey asked if this company was currently doing business in the state of Washington and if so what their intentions were. **Mr. Fries** said they were not yet doing business here, but that they intended to market the games to the Masque Card Rooms. He called Mr. Wisler, the company's president and treasure, to explain the type of games they were working with.

James Wisler, president, Masque Publishing, said they had a patent on Spanish 21 game. He said there were 100 tables now leased to various casinos in the jurisdictions mentioned. The game uses what is called a Spanish deck – there are no 10-spotted cards, so the deck goes seven, eight nine, jack, queen, king, ace. Taking the 10-spotted cards out of the deck will swing the odds toward the house somewhat and that's all repaid with Bonus 21 pay-offs, favorable rules for the players, so the strategy for the player has changed somewhat also. He said the game is not played in the state of Washington

Acting-Chairman Forrest asked if the odds were more or less favorable to the player than blackjack. **Mr. Wisler** said it was about the same, but the casinos were winning more right now because people are unfamiliar with the changes and strategies that need to be made to the same amount back, but when expertly played, it's about the same return as blackjack.

Commissioner Ludwig moved to approve licensing for Masque Publishing, Inc. as a Class B manufacturer to conduct business in the state of Washington. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with four aye votes.*

QUALIFICATION REVIEWS

YAKIMA GREENWAY FOUNDATION, Yakima

Mr. Fries said this organization was formed in 1980 to conserve, enhance and maintain the Yakima Greenway as a continuing living resource for future generations. The Foundation has been licensed since 1992, has 1,500 active members and is governed by a 25-member board. There is a full time executive director, seven full time employees and one part time employee to provide services. They own and maintain ten miles of paved pathway, three parks, two fishing lakes, four river access landings, plus protected and natural areas. The foundation's facilities are open and free to the public year round. They host several events for both children and adults throughout the year. The foundation created an educational program known as Greenway Eagle, which stands for environmental awareness, Greenway-led education for Yakima-area students.

Mr. Fries said that the organization met it's required combined net income percentage of 12 percent for its Class "J" Bingo license by achieving 16 percent net return. The year-to-date net return as of June 30, 1998 was 11.1 percent. The foundation's supporting services were less than the 35 percent of functional expenses. For the year ending December 31, 1997, the organization had excessive reserves; however, in a check on August 31, 1998, showed they are in compliance and do not have excessive reserves. The staff recommends that the organization receive a conditional certification to conduct gambling activities in the state of Washington. This is conditioned upon meeting the significant progress requirements set out in WAC 230-08-255. He said Angie Espinoza was present to speak on behalf of the organization as a charitable nonprofit bingo manager.

Acting-Chairman Forrest asked what had happened to the excessive reserves. **Mr. Fries** said that he believed they were up to date and they had been expended for 1998, but it was possible he was wrong. **Angie Espinoza** said they had reserves in 1997 and they had flood damage and couldn't do the repairs until Spring, which is what caused the reserves. She said they also built a new building in the park's visitor's center and the monies were

reserved for that.

Commissioner Ludwig said that last year when this was up for review, there was some discrepancy or reason why their approval was conditional. **Director Bishop** said Commissioner Ludwig was correct.

Commissioner Herbold asked about excess funds. **Director Bishop** said they amended this set of rules after working with them in the past to fit better for organizations that had large capital expenditures in the area of land, but were not able to use depreciation to show that they were utilizing funds. He said he was fairly sure that that was taken care of so that an organization like this can get a better credit. They have a substantial amount of property along the Greenway and those organizations that have soccer fields and such that typically aren't expensed off. He said he thinks that will come into play in the future with this organization. They are allowed to reserve funds for repair and other capital things or to acquire additional land beyond the limits that were normally set.

Acting-Chairman Forrest noted that, contrary to others in the same business, there was an enormous increase in revenue between '96 and '97 and he wondered what magic was in that feat. **Ms. Espinoza** said they had started a new program, purchased some electronics and did some different things with the program.

Commissioner Heavey referred to the cover letter that stated their program was "not in compliance with the program expenditures requirement for the fiscal year ended 1997." He asked if that meant that they weren't spending enough money and if they were accumulating funds for the purchase of future land. It appears that is their activity, that they buy land in order to preserve the environment and they maintain it. He asked how that is worked in if their function is to save money until they get enough money to buy another tract of land. **Mr. Fries** said he thought that was what Director Bishop was referring to because they made a change in the rule. It actually becomes effective in January and allows the director in these types of organizations that have some excess reserves to save that money and put that money aside. **Commissioner Heavey** said that would have been helpful to have in the memo, because it tells him they're not in compliance. **Mr. Fries** said that would be corrected for the future. **Commissioner Heavey** asked if they get into compliance by saying, "We're saving money to buy a tract of land, so therefore don't count this money." **Director Bishop** said technically they would be allowed to have funds larger than those normally allowed in reserves because the money would be marked for future purchases of capital or land. **Commissioner Heavey** asked if the Commission would be better off to adopt a rule to that effect, rather than rely on the discretion of the executive director. **Director Bishop** said that that was up to the Commission to decide. What they had found in working with the nonprofit organizations was that it's hard to get a rule that covers every particular situation and that was the reason they had asked for director discretion.

Acting-Chairman Forrest said he could understand having a rule that says that, with the director's discretion, the Commission can waive this for the purpose of accumulating money or land or something like that, but does the rule give a standard or was it just at the "director's discretion"? He said he could not remember whether they had a rule change per se or what happened. **Director Bishop** said he couldn't answer that right now because he would have to research it himself. He was speaking from recollection, but he would certainly get that information.

Director Bishop said that it hasn't been applied in a report yet and the rule is not effective yet. He said the staff would be prepared at the next meeting to brief them on that. **Acting-Chairman Forrest** suggested they put a brief note at the end of tomorrow's agenda and then if it takes any more study, fine, but between today and the end of tomorrow the staff could probably find a copy of a rule the Commission had adopted. **Mr. Fries** said he had a copy with him. **Acting-Chairman Forrest** asked him to run off copies and distribute them and then if there were a problem it could be put at the end of the agenda.

Acting-Chairman Forrest asked for further comments about Yakima Greenway Foundation. There were none and he called for a motion.

Commissioner Heavey moved to approve this organization as a nonprofit organization authorized to conduct gambling in the state of Washington. **Commissioner Herbold** asked if this is conditional approval.

Commissioner Heavey asked why this would be conditional. **Mr. Fries** said it was conditional based upon

during that period of time that they didn't meet their required percentage for that particular and now they must submit a waiver according to the rule to the director for consideration. He further explained that the rule they had approved about three months ago, which is WAC 230-08-255, requires that an out-of-compliance organization must submit a request for a waiver to the director with some sort of justification as to why and the director would either approve or disapprove it. **Commissioner Heavey** asked why they didn't do that in advance. **Mr. Fries** said that was possible to do, but because the rule for requesting that waiver does not go into effect until January, it had to be done that way unless the Commissioners change it.

Commissioner Heavey restated his motion without the words that it would be conditional. **Acting-Chairman Forrest** called for second. There was no second and the motion failed. He then called for a motion that they approve conditionally.

Commissioner Herbold moved to approve the Yakima Greenway Foundation conditioned upon their submitting a request for a waiver of the program expenditure requirements. **Commissioner Heavey** seconded the motion. *Vote taken; motion carried with four aye votes.*

BIG SISTERS OF KING COUNTY, Renton

Mr. Fries said this organization was formed in 1973 to encourage girls in the community to grow up to be healthy, self confident, and responsible women by supporting one-to-one relationships between a girl and a woman volunteer, who can nurture the girl's self esteem and help her develop the awareness of life choices. The organization, licensed since 1978, has 27 active members who also serve as board members. There is a full time director, 11 employees and 367 volunteers who provided in excess of 73,000 hours toward program services. The organization served 447 girls ranging in age from 6 to 18 during 1997 through their matching program. Big Sisters Life Choices and Big Sisters Buddies' Program provided mentoring for the girls during the school day in three inner city schools. Referred by teachers, parents, and upon their own, girls participate in decision-making classes with the ultimate goal of intervention to prevent early school dropout and enhance self esteem. The Life Choices Program served 90 girls during the first six months of operation.

Mr. Fries said that for the fiscal year ending December 31, 1997, the organization did not meet its required net return percentage of 12 percent for its Class "J" bingo license. The organization's combined net return was 11.2 percent; however, for the first six months ending in June 30, 1998, the organization achieved 14.3 percent net return; therefore, the organization's license was not limited as a result of violation. The organization met its program and supporting expenditure requirements and did not have excessive reserves. As of this date there is no administrative charges pending against the organization. Staff recommends the organization be approved as a charitable organization authorized to conduct gambling activities in the state of Washington.

Commissioner Ludwig asked if anyone from the organization is present. **Debbie Scott**, Big Sisters of King County came forward to answer questions. No one had questions. **Commissioner Ludwig** said this group is doing a wonderful job and he moved to approve the organization as nonprofit charitable organization authorized to conduct gambling in the state of Washington.

Vote taken; motion carried with four aye votes.

CARD ROOM CONTRACTS UNDER APPENDIX C – HOUSE BANKED PILOT TEST

RIVER BEND, Spokane

Ms. Cass-Healy said this item was removed from the agenda and will be up for approval next month.

KEGLER'S CHOICE (ORONDO BOWLING) Wenatchee

Ms. Cass-Healy said this organization is a bowling establishment, restaurant, and card room in East Wenatchee currently licensed to conduct punch boards and pull tabs with the Class C license, a card room Class E-5 gambling activities. They requested to participate in the house banking test program and are requesting approval to operate four tables of blackjack, one Let It Ride table, and two poker tables all with a maximum betting limit of \$25. Special Agent Tom Young reviewed the internal controls. Those controls consist of the administrative and accounting controls, forms and records, surveillance, organization of the gaming operation, and game rules. Controls in these areas were compared to appendices B and C and it was determined that controls were adequate and in compliance with the appendices. On September 17, 1998, the pre-operation inspection was completed. The nature, size and scope of the gaming operations and controls were compared to the information submitted by the licensee. It was determined at that time that the licensee's operations were in compliance with all the requirements of appendices B and C and the internal controls are functional as stated in the submitted document. Approval to participate in the Commission's house banking card room test at Level II, Phase I, is recommended.

Commissioner Ludwig moved that the contract for Kegler's Choice be approved; **Commissioner Heavey** seconded the motion. **Commissioner Herbold** asked for an explanation of a \$10,000 deposit shown and an amount due of -\$6,550 and then a balance which is refundable of +\$3,450 refundable.

Ms. Cass-Healy said that they paid their fees up front to participate in the test and then last month they required for all those wishing to continue participating in the test to submit a \$10,000 deposit and since they had already reviewed a portion of this premises, they had a refund coming back. She said everyone will get a refund of the amount they don't use of that \$10,000 deposit. **Commissioner Herbold** then clarified that in this case that refund for this operation is \$3,450 because the staff have finished their investigation.

Vote taken; motion carried with four aye votes.

DODGE CITY SALOON, Longview

Ms. Cass-Healy said this organization is a new commercial restaurant, lounge and card room in Longview, Washington. They currently have a Class "A" pull tab license and a Class E-5 card room license. Dodge City Saloon submitted an application to participate in the house banking test program on July 20, 1998. They are requesting approval to operate a total of 14 tables. Ten will be house banked games including nine blackjack table and one Let It Ride table. The remaining four tables will be center-dealt poker table at which a rake will be collected. Special Agents Janelle Bataglia and Keith Wittmers reviewed the internal control submission and it was determined that the controls were adequate and in compliance. On September 23 and September 28, 1998, the staff conducted a pre-operational inspection and completed and completed the pre-operations inspection checklist. Based on their review, it was determined the licensee's operations are in compliance with all the requirements of appendices B and C and their internal controls are functional as stated in their submission. The staff recommends approval to participate in the Commission's house banked card room test as a Level II, Phase I, operation.

Commissioner Ludwig wanted to know who owned One Longview Inc.. **Ms. Cass-Healy** said James Bakunowicz, and Regina Kasputis, who each hold 25.5 percent of the stock, own it. The remaining 49 percent is divided equally between three other officers of the corporation. **Commissioner Ludwig** asked if they lived in the state of Washington, but Ms. Cass-Healy didn't know. He also wondered if this corporation had any other applications that were pending. **Mr. Bishop** said he thought they had four, five and six -- five additional -- #74 through #78 on the list.

Commissioner Herbold wanted to know the basis upon which they were granted an expedited approval.

Ms. Winslow explained that they had set out the waiver process and if an organization met the criteria, they would be granted a waiver from the six-month requirement. Criteria include a level of knowledge of Washington State card room rules and regulations. The staff does a thorough review to ensure the operation is qualified.

Commissioner Herbold said it sounded like they had a two-month period, August and September, and now they are asked to approve them in October because over that two-month period, or perhaps over the one-month

period, prior to September 9th, the staff had confirmed that they were comfortable with their operation, their knowledge of the law, etc. and asked if this was becoming the “norm” that the Commission was giving waivers on most of these operations. She said it seemed to her that this was happening on a fairly regular basis and that the six-month rule really was not meaning very much these days. **Ms. Winslow** said Ms. Herbold’s statement was a fairly accurate assessment of the direction that it is headed. **Commissioner Herbold** asked if that helped the staff in terms of their timing on this or if it placed a burden on them.

Ms. Winslow said it did not impact them that much. Granting a waiver takes some additional work on staff’s part, but generally when they are granting a waiver, it’s more likely that the individuals know more about casino gaming and are more knowledgeable when they do grant a waiver because they have that requirement as opposed to somebody who’s had a card room for five to ten years – they don’t necessarily understand casino gaming and then it takes more time from the aspect of getting them fully up to speed in the casino gaming environment.

Acting-Chairman Forrest asked if anyone was present from One Longview.

Mark Southern, who is one of the shareholders of One Longview, Inc., said Dodge City Saloon has been in the restaurant business in Washington for six years, and he had been involved for five years. He said there were separate corporations for each restaurant for liability reasons. A new corporation was formed for this one just like each of their other restaurants. He said this was a different project, but they are taking an existing concept that they operate two restaurants under, country western steakhouse, burgers, sandwiches, salads, with the high energy country western theme, DJ dance lessons seven days a week – just bringing a different level of entertainment to this concept.

Commissioner Ludwig asked how long it would take them to start their business if the contract was passed today. **Mr. Southern** said it would take about two to three weeks. **Commissioner Ludwig** asked how soon they wanted to start their second one. **Mr. Southern** said they had not located a site at this point. **Commissioner Ludwig** pointed out that he was on the list six times and he wanted to know how soon they wanted to open that sixth one. **Mr. Southern** said they didn’t have a timetable that is necessarily dictated by the list. He pointed out that they were last on the list and he thought the reason for putting names on the list was to make sure that as they were ready to move forward with additional projects. Bearing in mind that he has five restaurants that have taken five years to put together so their growth curve has been rather spectacular in the restaurant business in southwest Washington and Portland. But the list has become this sort of thing that they needed to be a part of; otherwise, they might not get licensed when and if they were ready.

Commissioner Heavey asked if each of their restaurants have different names. **Mr. Southern** said they have two Dodge City Saloons, two [tape garbled] and one called the Onion Deli. He said they were located in Vancouver and Portland. **Commissioner Herbold** asked if they paid \$10,000 for each of the spots on the list. The answer was yes.

Commissioner Heavey moved to approve. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with four aye votes.*

KENMORE LANES, Bothell

Ms. Cass-Healy said this is a commercial restaurant lounge card room, fun center and bowling center in Bothell, Washington, with a current Class “K” pull tab license, a Class “A” commercial amusement game license, and a Class E-5 card room license. The organization is requesting approval to operate a total of seven tables, two of which will be house banked blackjack with a maximum betting limit of \$25 and five will be poker with three player-supported jackpots. Special agents Mark Harris and Susan Blanchett-Larson reviewed the internal controls submission. They also conducted the pre-operational inspection. Based on the review, it was determined the licensee’s operations are in compliance with all the requirements of appendices B and C and their internal controls are functional as stated in their submissions. Approval to participate in the Commission house banking card room tests as a Level II, Phase I, operation is recommended.

Commissioner Herbold asked for an explanation of the uncompleted signature cards at the time of the review referred to in the informational report. **Ms. Cass-Healy** said that part of the internal controls requirement is duplicated signature cards. She said they had them on order but had not received them the last time the agents were out there. She said there were supposed to be there today and then they would have a staff meeting where everyone would sign the cards so they could move on to house banking.

John Leeper, casino manager for Kenmore Lanes. He said they had a 15-lane bowling center, in which they have numerous programs and adult bowling. They have a full sports lounge with big screen TV and all the usual dart boards and so forth. He said they have the largest amusement arcade for the kids in the state that he knows of and they have a card room that has been in existence for the last 25 years. He became the manager about a year ago and they've been in the progressive player jackpot program for the last seven months. **Commissioner Ludwig** asked what kind of an entity Eleventh Frame Restaurant and Lounge was. **Mr. Leeper** said that it was the name of the corporation and they were doing business as Kenmore Lanes and that Frank Evans was the owner of Kenmore Lanes and all the licenses in the center.

Commissioner Heavey moved to approve. **Commissioner Ludwig** seconded *Vote taken; motion carried with four aye votes.*

HOUSE BANKED PILOT TEST – PHASE II REVIEWS

PLAYERS AND SPECTATORS, Spokane

Ms. Cass-Healy said this organization consists of a card room, entertainment center, lounge, and restaurant. Mary Lou Higgins, Harold Higgins, and Therese Higgins hold 58.22 percent of the shares of the corporation. Numerous other parties hold the remaining 41-plus percent. Mr. Higgins is president and chief executive officer and Douglas C. Deandre is secretary-treasurer. They entered the card room enhancement program in August 9, 1996. A request to participate in the house banking test program was submitted in February of '98. As a requirement of Phase II, Level I, the licensee's internal controls were reviewed. Approval to operate a total of 15 tables, consisting of Caribbean Stud, Let It Ride, and progressive blackjack along with blackjack was granted by the Commission in April of 1998. For the Phase II review, staff reviewed the gaming operations, closed circuit television system, a review of the cashier's cage as well as the gaming and organizational records, law enforcement and taxing authority inquiries, review of the count room controls, and the key control procedures. An exit conference was held on August 29, 1998, where all violations were discussed. All violations were corrected prior to this report being completed. Based on their review, the staff recommends approval of Level II, Phase II, for Players and Spectators. She said there is a representative present who would like to speak on behalf of the organization.

Patti O'Brien, of Players and Spectators, was representing Mr. Higgins who could not be at the meeting and briefly recapped his statement. She said Mr. Higgins is a school teacher and was required to stay in Spokane because his football team was in a football game this afternoon and he had promised the kids that he would be there with him. She said she and Tammy Gregory were attending on his behalf.

Ms. O'Brien read Mr. Higgins' prepared remarks and said this facility currently has 51,000 square feet. The house banked program has had a positive effect on his business. His father, Hank, purchased the business in April 1976 and at the time was called East Bowl and consisted of a 24-lane bowling center and a small café. He said he had an excellent employee base, which was evidenced by the fact that as of today he still has 15 employees with 10 or more years of service. He took over the business after his father's death in August 1995 and in May of 1996 they did a \$2.2 million remodel and renamed the business "Players and Spectators." He said the new card room featured 10 poker tables and five player-supported blackjack tables. Even with these new amenities they still struggled to make ends meet. The pull tab sales had dropped by nearly 50 percent. The new house banked card room draws a very diverse crowd. In January 1998, Spokane was hit with a hepatitis A epidemic and four workers were diagnosed with the virus. The total cost to the business was over a half million dollars.

In April 1998 they were approved to become a house banked card room and have gone from an employee base of 75 to over 175 at the present time. The backgrounds of these new employees range from single mothers who have come off welfare to a 74-year-old retired contractor. The new house banked card room draws a very diverse customer base, which includes doctors, lawyers, and many other business professionals. The house banked program has had a tremendous financial impact. From April 1997 to September 1997, they paid \$60,000 in taxes and from April 1998 to September 1998, they paid \$131,000 in taxes. In 1997 they paid \$84,000 in payroll expense for their card room; in 1998 they will pay \$400,000 in card room payroll expenses. Their dealers make approximately \$10 to \$15 per hour; the floor supervisors make \$15 per hour. She said Mr. Higgins thanks the Washington State Gambling Commission for allowing their company the opportunity to participate in the house banked program. Without this program, their business would be faced with having to close their doors.

Commissioner Ludwig asked if they are located inside or outside the city and if there were too many card rooms in Spokane yet. **Ms. O'Brien** said they were outside the city. She said they didn't feel there were too many; that when she called today they were busy and when they get their \$100 limits approved they will do even better.

Commissioner Ludwig said that he had heard that Players and Spectators had the reputation of being one of the better casinos in Spokane. **Ms. O'Brien** agreed and thanked Commissioner Ludwig. **Commissioner Ludwig** said there was a lot of media attention being paid to Spokane about there being too many gambling establishments and wondered what she thought about that. **Ms. O'Brien** said they feel comfortable, but that there is a daily media fight. She said they received comments pro and con about the gambling. She said that because they are not in the city limits they get left out of a lot of that. **Director Bishop** brought to attention that Ms. O'Brien's function in the organization was internal auditor and that she is a former employee of the Commission.

Commissioner Ludwig moved that Player and Spectators be approved phase II operation. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with four aye votes.*

Director Bishop complimented the Gambling Commission staff on the excellent report. He said he seldom had a chance to read them and he had read this one and was very impressed.

Commissioner Ludwig noted that they had dropped or omitted one house banked card room application and he wondered if that were at the applicant's request or if it were something that staff did. **Ms. Winslow** said it is her understanding that staff were not able to get all of the issues addressed that were out of compliance with appendix C so they had to pull that from the agenda. It appears likely that it will come forward in November.

OTHER BUSINESS / GENERAL DISCUSSION / COMMENTS FROM PUBLIC

KALISPEL TRIBAL STATE COMPACT

David Montecucco, owner of Silver Lanes Casino asked if he could read a statement into the record. Acting-Chairman Forrest asked what it pertained to. Mr. Montecucco said it was concerning the Kalispel tribal issue and the hearing to be held the following Wednesday at the Days Inn in Spokane. **Acting-Chairman Forrest** pointed out that it might be more appropriate for another time, but if it was not too long and if the Commission did not object they could hear him for two minutes.

Mr. Montecucco distributed copies of a statement and asked the audience to share. He invited the Commission and staff to attend the final hearing on the Carnival Resorts Casino Project on the Kalispel Indian Trust Land in Airway Heights. He said there was an article concerning the issue of the community contribution and what could happen if policy makers and the Compact are not studied carefully. There is also a copy of the Supreme Court ruling on the good faith negotiations and how that can be interpreted and an article on how far certain tribes are willing to go to ensure that they will be able to self regulate themselves. He apologized for sending so many letters to the Commission in an effort to keep them and the staff informed in order to inform them of their plight and their effort to keep their 35-year-old family business afloat. He asked that they make sure that every effort to attend both the public hearing and the testimony against both proliferation of gambling and how the gambling is expanded in eastern Washington is done as well as how unfair it is that outside money might be able to come in

and dictate their own rules. He pointed out that the second appendix shows how Carnival Resorts is attempting to manipulate the community contribution issue so that in the future they can come back and show how they are not responsible to pay this contribution. He requested that the Commission help protect not only their local community but also the tribal members themselves from being misled by experts who have systems in other areas of the country. His full statement is attached to these minutes.

Commissioner Ludwig said he didn't know if it was appropriate to comment or ask questions but wondered if they would be hearing in the future about this matter. **Mr. Montecucco** said no, he would not be commenting at the hearing in Spokane next week. **Commissioner Ludwig** asked if Mr. Montecucco if he thinks there are too many card rooms in Spokane and if the atmosphere was for him pretty fair and favorable. **Mr. Montecucco** said the only issue they had was on taxation since they were in the city limits. He said there was not a problem at this time. He said he hesitated in answering because the nonprofits made the statement that their revenue was down. In the early '90s when the tribes opened up in eastern Washington there was a decrease in revenue for everybody and there were several bingo parlors that closed, and then there was a leveling out. Now, with the electronic devices in eastern Washington – about 300 within an hour's drive – makes this a big issue because unlike in the Puget Sound area, eastern Washington doesn't have the population to support a large casino of that size. **Commissioner Ludwig** said there were many card rooms in the Puget Sound area. He also wanted to know if Mr. Montecucco was speaking out against the Kalispel Compact. **Mr. Montecucco** said there were certain issues about the compact that bothered him. **Commissioner Ludwig** asked if he spoke out against the Spokane Tribe for operating casinos without compact in proximity to Mr. Montecucco's business. **Mr. Montecucco** said they had not spoken out in this forum, but in others they had.

Acting-Chairman Forrest called for an executive session to discuss pending investigations and litigation.

EXECUTIVE SESSION

MEETING ADJOURNED

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, October 9, 1998

Acting-Chairman Forrest called the meeting to order at 9:30 a.m. at the Silverdale on the Bay Hotel in Silverdale. He introduced the WSGC staff and Commission members at the head table.

MEMBERS PRESENT: MARSHALL FORREST, Vice Chair; EDWARD HEAVEY; CURTIS LUDWIG, and PATRICIA L. HERBOLD; and Ex Officio Members SENATOR MARGARITA PRENTICE, SENATOR RAY SCHOW, and REPRESENTATIVE RUTH FISHER

OTHERS PRESENT: BEN BISHOP, Executive Director;
SHERRI WINSLOW, Deputy Director, Operations;
ED FLEISHER, Deputy Director, Policy and Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
BOB BERG, Assistant Director, Special Operations;
AMY PATJENS, Public Affairs Manager;
JONATHAN McCOY, Assistant Attorney General;
and SUSAN YEAGER, Executive Assistant

APPROVAL OF THE MINUTES FROM THE SEPTEMBER 10 - 11, 1998, MEETING

Acting-Chairman Forrest asked if there were any changes to the minutes from the September 10-11, 1998, Commission meeting held in Yakima. **Commissioner Herbold** said that on page 19 at the very top, she wondered if the \$5,000 number was correct; **Ms. Winslow** said that should be \$2,000. **Acting-Chairman Forrest** asked if there were any other corrections and there were none and declared the minutes approved as changed.

STAFF REPORT

CARD ROOM ENHANCEMENT PILOT PROGRAM

Ms. Winslow gave a report on the card room enhancement test. She said there are currently there were 23 approved operators in the program at this time, 17 of whom were operating as level II phase I and six of the operators are level II phase II with a maximum of \$100 wager. As they were advised previously, the staff limited entry to the card room house banking test to all those that were on the list on August 14, 1998. Participants were required to either have a card room license or submit an application with a \$10,000 refundable deposit in addition to a letter of intent to participate by September 18, 1998. Eighty-two organizations have submitted information allowing them to remain on the listing. In addition, participants were sent a letter from the director stating positions in the pilot program could not be purchased. Any change in a substantial interest holder represented to the Commission would be cause for removing an organization from the program.

Ms. Winslow said that projections for the remainder of the test period include 10 operators being scheduled for review at the October and November meetings. It was expected that a majority of these would be completed as scheduled and presented to the Commission. Given the number of operators remaining on the participant list and in order to focus their resources on regulation and monitoring of existing card rooms in the test, staff recommend that the number of reviews be limited to five per month for January and February. In addition they would further limit the reviews to two per month in March, April and May. This could result in approval of up to 16 additional operators for the first half of 1999 for a maximum of 49 participants at the conclusion of the test. She referred to an attachment of the house banked review schedule on the last page of the report she had just handed out to the commissioners.

Ms. Winslow said that with regard to card room rules, the rule making process began with a meeting of staff on September 28, 1998. Rule development procedures and staff assignments were determined at that time and staff expect that draft rules should be ready for review around the first week of January. **Ms. Winslow** said that their card room regulatory program begins with the initial reviews and as she had stated previously, a schedule of those reviews were on the last page of their report. She said the second step of the regulatory program was under review at this time for a final update in January. Currently, they are focusing the majority of their resources on inspection and review procedures to ensure a new comprehensive regulatory program is implemented at that time. **Ms. Winslow** said their monitoring program was similar to their tribal casino program and includes a schedule to conduct compliance inspections, an average of which will include two to three modules completed per visit. They plan to expand this program in March. Phase II reviews are currently scheduled on a basis which requires overtime be available for staff to complete those. The plan to schedule at least one regular hour phase II review per month to begin in March. If staff indicate a willingness to complete additional phase II reviews on an overtime basis, they will be completed. **Ms. Winslow** said they would provide a preliminary card room test report in January and a comprehensive report in May. These reports will include information gathered during the test period in order for the Commission to make decisions regarding scope, activities, and regulation of the enhanced and house banked card rooms in the future. **Acting-Chairman Forrest** asked what a realistic expectation would be for when they might become effective assuming the draft rules are completed by January. **Ms. Winslow** said the staff's projection was July 1, 1998.

Commissioner Heavey asked about the River Bend matter, which had been removed from the agenda yesterday. **Ms. Winslow** said they would like be added to November agenda. **Commissioner Heavey** said that would be seven in November. **Ms. Winslow** said that would be correct if all seven were completed prior to the Commission meeting.

Commissioner Herbold said that if they end up with a total of 49, taking into account they have 23 now, but 82 have paid the money and provided the information, submitted application, she wondered if those people knew that at some point they might not be approved for the pilot program because they would have to wait until the permanent rules were in effect. **Ms. Winslow** said they had announced that in the study session.

Commissioner Heavey wondered if the people who are approved under the pilot program would have to be approved again under the permanent rules. **Ms. Winslow** said the plan was to prorate all the test fees up through June 30 and then have the actual rules in place and license fees in place for somebody to apply for a license effective July 1. **Acting-Chairman Forrest** said his understanding was that if they were successfully functioning under the pilot program, the reasonable expectation would be that when the new rules were adopted and if they were effective July 1st, then they would just keep going and never know the difference. **Ms. Winslow** said that was correct.

Director Bishop said that would be one of the decisions that needs to be made in the rule making process for the permanent program. The question is whether to go through the formal approval process or handle them like other licensing issues. He said the staff would appreciate the commissioners' input regarding that.

Commissioner Heavey asked if what he was requesting clarification on is whether they have to approve each one of these individually as they're approved or whether they apply for a license; they meet the requirements of the rules and then they're granted a license. **Director Bishop** said yes. **Commissioner Heavey** said that's what they do now in every other type of activity. **Director Bishop** said that was correct.

Chairman Forrest asked if there were any further comments or questions. No one had any.

RULES FOR FINAL ACTION

SALE OF BINGO PAPER ON CREDIT

Ms. Patjens said that in 1997, the Commission passed a rules package that deals with purchasing gambling equipment on credit. Within the definition of gambling equipment was bingo paper. The rule became effective January 1, 1998. Shortly after that, the staff received comments from distributors and operators who were concerned because bingo paper and supplies had traditionally been purchased on credit and the new rule prohibited this. The proposed rule fixed that and allows a nonprofit to purchase bingo paper on credit, but only up for to 30 days.

Ms. Patjens said that at the Commission meeting in August, Commissioner Heavey asked, if someone was purchasing on credit and they had exceeded the 30 days, would there be notice out to distributors that this person was behind on their bills. The staff did some research into that. She referred to a memo in the packets that was written by Special Agent Julie Mass that explained why they don't feel they need to have a notice requirement in the rule. The short reason is there are only a few distributors in the state who manufacture and sell the bingo paper and it seems it's a situation where, if someone had not paid their bill, probably the new distributor would be aware of that. They also do routine inspections looking for discriminatory pricing and this is something they would also be looking at. The staff requests that this be voted on by the Commission.

Acting-Chairman Forrest asked if anyone had questions or wished to testify.

Commissioner Heavey moved to adopt the rule; **Commissioner Herbold** seconded the motion..

Vote taken; motion carried with four aye votes.

REDUCTION OF LICENSING FEES

Ms. Patjens said these rules deal with rolling back the license fees to what they were in 1997. About this time last year, the Commission passed a fee increase with implementation to be June 30, 1998. In looking at the financial situation, it was determined that it is not vital to have this increase in fees. All of that information was included during the budget presentation, which did not include this type of fee increase. The rules would roll back the fees to the 1997-level and then provide repayment to licensees that have paid the new fees from July 1 until these rules would be effective. The staff recommends final action. They ask that, if the Commission approves this rollback, the rules become effective 30 days after filing. This will help them so that they have to make fewer repayments or fewer reimbursements.

Acting-Chairman Forrest said this is the rule that they had approved in substance, but they had to carry it over for formal approval because of the dates scheduling with the code reviser. He asked for comments or questions.

Commissioner Herbold moved to adopt the rule as set forth as items 4A through 4D and that they become effective 30 days after filing with the code reviser's office. **Commissioner Heavey** seconded the motion.

Vote taken; motion carried with four aye votes.

INCREASING THE PRIZE LIMITS ON PULL TAB GAMES

Ms. Patjens said this would increase the allowed prizes from \$500 to \$750 and this would apply to all pull tabs including the jar ticket games, which they were given an example of last month -- the small single-sheet banded tickets. During the last legislative session, the Legislature passed a law that allowed the amount that a tab could

be sold for to increase from 50 cents to \$1. There was no change in the amount of the prizes, but that is something within the Commission's power to do. Since then, the industry has wanted to increase the prize limit because they feel like there is very little incentive for a person to pay a dollar for a pull tab and win a \$500 prize when they could just pay 50 cents for a pull tab and have the chance to win a \$500 prize. This rule would allow an increase in the prize; however, one note on merchandize games – it would not change the 50 percent markup rule, so if an operator decides they're going to have a prize worth \$750, the maximum that they could mark that up to would be \$750, so they would not be able to mark it up to \$1,000 plus.

Ms. Patjens said there was a change that was voted on the last month. The Commission voted to amend the section of the rule that deals with the secondary win codes. When this rule was first proposed, they received some comments from manufacturers of the jar tickets who felt like this was the type of game that they would not be able to produce with the jar tickets if they had to have the secondary win code. The secondary win code is just a code that helps prevent forgeries and frauds and they looked at this last month and felt like there hadn't been a lot of frauds and forgeries with these types of games and did not feel they had to maintain that requirement.

Acting-Chairman Forrest asked how the secondary win code get used when it's used and how was it not going to be used when it was not going to be used.

Director Bishop explained that the first win code would be like the symbols – three bars – so the player know that's a winner normally. Someone might counterfeit that by taking one with two bars and a cherry and then cut down a bar from another one and stick it over the top of it. To stop that kind of counterfeiting, there would be a secondary win code, which is typically an arrow drawn through the winning tab, and those bars that didn't have an arrow through it would not be a win. **Acting-Chair Forrest** said it was not like a PIN code, not a secret number, but something on the face of it, which makes it a little harder to duplicate or forge. **Director Bishop** said that some of them had become very detailed win codes that actually go down to put a specific number and that number is identified with a serial number on the set itself. That additional level of security was what the staff originally asked for on all the tickets. He said there were problems with it not only from the fact that is a very expensive process to go through, but there were also potential problems with it may be copyrighted or patented by some manufacturer that had developed it and all manufacturers may not have access to use that. That is the best type of anti-counterfeit procedures, but after going back and reviewing their cases over the last several years, the two methods that they had come up with now include using florescent ink as an additional win code on those winners. Those types of things have been found to be adequate so they backed off on having the extra level.

Acting-Chairman Forrest asked what happens when there is a counterfeit ticket and how the operator might discover that he is paying out more money than he should. **Director Bishop** said one of the things would be if there are four \$500-winners and all of a sudden a fifth one shows up, they would know they had a problem. He said there had been occasion to get quality control problems and an extra win sheet might have been thrown into a set that there could be five winners, but they would know right away that something was wrong. To counter this, they changed rules a few years back to say that when anyone presents a particular winner, they must also show identification and actually sign something that goes with that identification so that particular ticket can be tied to a person. Those levels have worked to reduce the number of forgeries over time.

Mike Robbins, Trade Products, which is a division of Stuart Entertainment, explained that their secondary win code system was designed so that there is a little card with every game that has a code number on it – say a five-digit number that is printed on the ticket on the major winners. For example, if there is a \$500 prize, it will be assigned a serial number that is printed on the ticket and when someone brings that ticket up to cash it in, the bar tender or someone at a bingo hall or whatever can verify that is a winner by checking the code number to the check card. Basically, it goes down – usually the top three or four tiers depending upon how many usually above a \$50 winner, but it was done to stop forgeries because people were before cutting and pasting and doing some things that this prevented and it became adopted throughout the industry probably about six years ago. **Acting-Chairman Forrest** said it sounded as if he thought it was working satisfactorily. **Mr. Robbins** said it was if people use it; if they don't use it, it doesn't work.

Commissioner Ludwig asked Mr. Robbins how this change would compare to other northwestern states as far as purchase price and prize limits were concerned. **Mr. Robbins** said it would not make much of an impact here

because those surrounding states have \$1,000 or \$2,000 top prizes, so Washington going to \$750 is not a major issue; it's just that if someone pays 25 cents or 50 cents to buy a \$500 pull tab, there's no incentive to pay a dollar to win that prize.

Commissioner Herbold wondered if the Commission removes this requirement for the secondary verification on the tickets and, in light of Mr. Robbins' comments that there used to be attempts at fraud, would that happen again? **Ms. Winslow** said that it is very difficult to forge. Fraud and forgery are two different things. There could be frauds that would occur with these types of tickets and it wouldn't be a forgery. The forgeries generally occur with different types of tickets and the staff does not think there will be a problem with the jar tickets because it is very difficult to forge those.

Commissioner Heavey moved to adopt the rule. **Commissioner Ludwig** seconded the motion.

Commissioner Herbold said that she did not see this as an expansion of gambling, but it is interesting to note that since she's been on the Commission, the cost of a ticket has jumped up to a dollar. And within a very short period of time now, the request is that the prize amount increase to \$750, because who would buy a \$500 prize chance for a dollar when they can do it for 25 cents or 50 cents? Her thought was why don't they reduce the prizes for the 25 cent and 50 cent games so that the dollar ticket makes more sense to win \$500. She wondered how long it will be before the request is that they can have a \$2 ticket and shortly thereafter, the comment will be who's going to buy a \$750 prize chance for \$2 when they can do it for \$1? Then there will be a request for maybe a \$1,000 prize limit. She said that she was just commenting that in a short period of time she's seen this incremental step-up in prize amounts, ticket costs, in all of the areas. She added that she was merely making an observation as a new person and she realized they were in business to make money and she was not against that.

Acting-Chairman Forrest said her question prompted his observation that ticket prices were set by the Legislature and the prize limit was established by the Commission, which **Director Bishop** confirmed.

Acting-Chairman Forrest said that to him they were linked and wondered why the two different entities were involved with price setting. He suggested that this be noted and brought up the next time it comes before the Legislature.

Vote taken; motion carried with four aye votes.

RULES FOR DISCUSSION

RECORDKEEPING REQUIREMENTS FOR PULL-TABS GAMES WITH CARRY-OVER JACKPOTS

Ms. Patjens said this was a rule that the Gambling Commission staff was proposing in conjunction with the Washington Civic and Charitable Gaming Association (WCCGA). He said currently jackpot prizes are not recorded until they're paid out. If there was a \$500 jackpot prize that was won, the operator on the day it was won would record the amount of the prize. She said the organizations would prefer to record or accrue a portion of the prize on a monthly basis. Instead of recording the \$500 when the prize has been won, perhaps the operator would have already recorded a couple of hundred dollars and then when the prize was actually won, they would record whatever amounts were left. This would be a new format for recording these so they would recommend that the rule only apply to bingo operators who have a Class "F" or bigger license. Also they would have to get approval from the director to use this accrual method. Staff recommends further discussion.

Acting-Chairman Forrest asked what the underlying purpose was. **Ms. Patjens** said it could have an incremental effect on net return. **Ms. Winslow** said this was actually a proposal by the licensee groups so the staff's understanding was that they were trying to even out their income level so that they don't have any big hits against their net return.

Acting-Chairman Forrest asked if there was anyone in the industry who would like to explain why this was a good idea.

Ric Newgard, Seattle Junior Hockey and also with the WCCGA, said this particular carry-over is that a jackpot can be accrued up to \$2,000 by putting this setup into play. If the big jackpot is not hit, they can take \$100 out of this tank; put up a new tank, carry it over to the new tank so the jackpot consistently grows by, say, \$100 every time that tank comes down. He said what they wanted to do was instead of the last game of the series taking a \$2,000 hit on the net, just take \$100 out and hold it in an accrual jackpot so it makes reporting even as the set comes down and that way it doesn't show big peaks and valleys on the reporting for the pull tab sales.

Commissioner Heavey asked what effect this has on the industry. **Mr. Newgard** said it was primarily for recordkeeping consistency. Instead of John reviewing his reports every Monday and the pull tab sets looking good and all of a sudden he gets a \$2,000 hit, he wonders why this is such a bad weekend. This way they take money out of each set as they go so it stays more flat line instead of peaks and valleys.

Commissioner Heavey asked if it would be similar to putting money aside each month for paying property taxes and **Mr. Newgard** said that was exactly right.

LOCATION OF BINGO GAMES/JOINT BINGO GAMES

Ms. Patjens said these had been filed after the last Commission meeting. She said that in 1995 Jon McCoy, Assistant Attorney General, had been asked for an opinion on whether the Gambling Commission could authorize joint bingo games or whether it needed to be changed by the Legislature. Mr. McCoy said that it could be by rule, but a Legislative change would be a little bit of a cleaner approach. In 1997, there was a bill that passed the Legislature that was partially vetoed by the Governor and in 1998, there was a short legislative session and it did not pass.

Ms. Patjens said that after that, the staff received a couple of letters from the Legislature that were signed by a number of legislators asking the Commission to look into authorizing joint bingo games by rule. They were aware of the 1996 opinion that this was a possibility. At that, Commissioner Forrest asked the staff to put a rule on the agenda to generate some discussion on this. That rule is in their packets. After the Commission filed the rule and there seemed to be some support for the concept, the staff formed a task force with the Commission's staff as well as representatives from the industry and put this rule package together. At the last Commission meeting, Commissioner Forrest suggested that they send a letter to the Governor's office to inform him that the Commission was considering this. They had heard informally – and the license group had heard this – that, had the bill gotten on his desk last year after session, that there was a pretty good chance that he would sign it. The staff has notified the Governor's Office and asked for a response.

Ms. Patjens gave an overview of each rule. Item 7A explains how joint bingo games would be conducted. It is very similar to how bingo currently operates only now there would be linked bingo prize providers which are the companies who provide the link-up equipment for the different bingo operations. A linked bingo prize provider would have to receive approval from the director before allowing an new operator to participate in a game that offers the linked bingo prizes so they would be very aware of which organizations were doing this. The numbers would be drawn at one bingo location and then displayed to all other bingo halls that are participating in the game, probably on the form of some type of a big screen where they would then see what numbers had been drawn.

Mr. Patjens said there was a change from last month. They clarified that only one organization could have one linked bingo prize per session and no more than three linked bingo prizes per day. They would like to make an addition to that rule. Right after that, they would like to add, "without prior approval of the director or his designee." **Ms. Patjens** said that would go right behind the introduction section where currently it's bolded and underlined and it says "A bingo operator shall not be approved to offer more than one linked bingo prize per session and no more than three linked bingo prizes per day." The staff recommends adding "without prior approval of the director or his designee." **Commissioner Heavey** pointed out that the change is superfluous.

Ms. Winslow apologized and said they were focused on the one addition during the study sessions and since they were just looking at the one addition, they didn't realize that the prior sentence said the director, so they can withdraw that. **Ms. Patjens** said the staff stands corrected and withdraws that request.

Acting-Chairman Forrest said that what they were really saying now was that if the director approved, they can have any number of bingo games – they must have approval to have any – and that can be any number that the director approves. **Commissioner Heavey** said no, only after three. If they want more, then they must. **Ms. Patjens** said that is what the staff was trying to say by adding in, “without prior approval of the director or his designee.” She thought what Commissioner Heavey is suggesting is that they do that in a separate sentence instead and saying that the director may approve more than one linked bingo prize per session and more than three linked bingo prizes per day. **Commissioner Heavey** asked why the staff doesn’t just say as many as the director approves?

Commissioner Herbold said what confuses her is that the sentence starts out saying a bingo operator shall not be approved – and then she wants to add, “without the approval. . .” To her it should have said, “a bingo operator shall not offer more than one prize per session or three per day without the approval of the director.” But she agrees with Commissioner Heavey that overall it could be worded in one sentence to make a little more sense. **Ms. Winslow** said the staff could come forward at the next meeting with adjustments to this rule to reflect their comments.

Acting-Chairman Forrest said that before they do that, and although he has great respect for the director, he didn’t think they needed all this free-floating discretionary activity. He said it seemed to him that it was a new thing they are doing. It didn’t look like an unreasonable restriction and they could always amend the rules; the experience of the industry is that this is insufficient or that more frequent drawings would be beneficial. He said he thought they could come before the Commission to make their case, particularly with a brand new activity such as this. He said he thought he was one of those who thought they ought to push along on this matter, but he thought that they don’t need either the suggested sense or Judge Heavey’s suggested clarification. **Commissioner Heavey** said he liked Acting-Chairman Forrest’s suggestion to limit it to one, but more with approval. **Acting-Chairman Forrest** asked to hear from the affected people present.

Don Kaufman, General Managing Director for Big Brothers/Big Sisters, said the whole additional sentence was news to them at yesterday’s study meeting and the way the staff explained it to them was that they needed some time to ramp up staffing-wise for this change in the industry. He said they know that the fees inside here will pay for 1.5 FTEs, but the staff wants a period of time to gear up based on how this program works once it’s in place. He said he suggested yesterday that they would put a sunset clause in there that said for the first six months there can be one prize per session, and three per day, giving them ample time to ramp up. They, in turn, suggested that they give that approval for more to the director, who could then deal with it as he sees fit and that’s how they got to where they are this morning. He said the industry prefers a sunset clause so that they know the staff has ample time to ramp up and they are not cramping the security of the system or the staff’s ability to do enforcement, but they don’t want a permanent rule in there not knowing where this industry is going to leave them.

Commissioner Heavey asked what the legislation said that was approved by the Legislature and vetoed by the Governor and which he indicated he would now sign. **Mr. Kaufman** said there were no restrictions in that legislation that he was aware of as far as number of session. It just authorized the activity. **Director Bishop** said it authorized under rules that the Commission would set.

Acting-Chairman Forrest said it was a lot harder for the director or the staff to deal with the industry day-by-day when they are on a personal and friendly basis. It’s a little touchier for them to say no to something, particularly since they know that the Commission in general is supportive to nonprofit operations. He said he didn’t think what they were asking for is a good idea. He said there is time to discuss this further and there may be other considerations that he hadn’t thought of, but his inclination is that this is not a situation where they need either a sunset clause or discretion of the director. He said he thought they ought to set this up, let it get going, then if they find that flexibility is really necessary and the staff, after some experience with monitoring these games, is convinced it’s possible, then they could come back and take another look. He said he didn’t think a final decision was necessary today one way or another.

Commissioner Heavey referred to the tribe’s linked bingo and asked how many games they have. **Director Bishop** said there is only one during their session. He said the president of the corporation that manufacturers

joint bingo is present to answer those questions. **Commissioner Heavey** said he was asking the question to get some sense of the experience of what proves to be profitable. **Director Bishop** said it was his understanding that they have only one large jackpot game that's networked countrywide. **Acting-Chairman Forrest** asked if they knew how often it ran. **Director Bishop** said once a day.

Gorden Sjodin said he is the Executive Vice President of Multi Media Games. He said that, due to time zone differences, the tribal lottery has an early game and a late game and then they have a third game that plays only for the very smallest halls and it's a much lower prize. The prize on that game is \$2 million and in that particular game there are 17 states and some very large Native American facilities. Unlike the game that he understood was being proposed today, they're going to be playing for a prize that will be given out every night and he understood that it wouldn't be quite the same as theirs. They set a prize level where the player has to cover his card in a specific number of calls and, as an example, if the bingo does not occur in the first 48 numbers, then they continue on until there's a guaranteed consolation prize similar to what the jackpots are in most of the halls. If the bingo does occur in 48 numbers or less, then the winner is guaranteed a minimum prize and is given an all-expense paid trip down to Oklahoma where the ball draw is held and, at that time, they are guaranteed to have won \$50,000 and they get an opportunity to spin a large wheel that will determine whether they can win more than that \$50,000 and that's a progressive (of course it's all based on odds). Last year there were three \$1 million winners on that wheel and they just increased the prize to \$2 million starting January 1, and at this time they have not had a \$2 million winner on the wheel yet. There is one game played on the Central and East Coast time, one game on Mountain and West Coast time.

Commissioner Heavey said that those were 17 states and what the commissioners are talking about here is just within the state of Washington. He wanted to know what the difference was between playing in the hall and playing linked bingo – if there is a difference. He wondered if they would find if they say that they can run as many linked bingo prizes as they want to, then are all the bingo games going to be linked bingo and if so, what's the adverse effects of that, if any? **Mr. Sjodin** said he could not speak to what the company that is offering this to the state of Washington is contemplating. He said his company has looked at this in Indian country over the past 10 years or so that they have been involved and find great objection on the part of the tribes to – for all their games on the satellite. Obviously, the number of winners will be cut down in the hall because, if there are 40 halls that are in there – it's going to take 40 games on the average in order to get a winner. The question is whether people would sit there and be playing against thousands of players in every single game rather than be playing against their own group. The whole idea of this linked game when the tribes started it, and the people that are proposing this game for the state of Washington that came from Canada is to use this as a marketing tool and draw more players into the hall just as the tribes have done. As a marketing tool, it does very well offering one game. They play their regular session and everybody has the opportunity to play against all the rest of the players in the hall for the normal prizes just like they play. Then one or two or three extra games are provided via the linked method and as was explained, they put a camera on a caller in one of the halls, in their case they beamed that to a satellite and then downlink it into all the halls so that everybody sitting in the hall can actually see the caller drawing the balls and they feel like they're a part of it. He thinks that in the first years that they had it there was a little bit of an integrity problem which they got over that hurdle after about the first three or four months when people actually saw people winning, understand that they could win in their hall just like anybody else and of course the games continued to grow.

Commissioner Heavey said he is not a gambler, doesn't understand the psychology of gambling, doesn't understand what encourages people to play or not to play, or what's reasonable limits upon somebody's enticement for people to spend their money on bingo or slot machines or whatever the gambling device is, so he would have difficulty in that. He wondered if the result would be to convert bingo halls into just satellites of a bingo game that's played statewide. **Mr. Sjodin** said he did not anticipate that but could not speak for the charities or the people who are trying to provide this for Washington. He said it was like going back to the early days of bingo and how the revolution of bingo has taken place over the years – they used to have hard cards and little beans or corn. Then they got to the slide cards, then came the paper. One of the things he is seeing as he travels, and he travels to about 70 different locations for the Native Americans, is the trend going to all-electronic halls from the standpoint that the paper is gone. He was in one hall in California last week where they have a player station in front of every single player and everybody is now playing on electronics and they've done away with the paper. The next step in that is the linking of some of those electronics from hall to hall to play certain

linked games. He said he did not personally see this coming soon. But who knew 10 years ago they were going to be having satellite today.

Commissioner Heavey said there was a big discussion about electronic bingo daubers when he first came on the Commission five years ago and now no one seems to have any problem with them.

Director Bishop clarified the discussion from a staff perspective by stating that when they went in this the model it was after was actually a Canadian model. It was one game a day, but there would be a winner in every hall. They had anticipated that this would be one game per day. He said he thought the charities had a different perspective, although it wasn't shared that they figured that it would be more than one. To be able to crawl before walking and certainly before they ran, this was an alternative to say one per session and no more than three per day. This would give more flexibility. Most of the games -- especially the larger ones -- have three different sessions a day. Just to clarify, he certainly doesn't want the grand honor of approving more of them. He agrees wholeheartedly on that.

Mr. Newgard said that when they started this process about three years ago, they looked at the Canadian model and what they are looking for is simply to draw some customers into their facilities. They are losing customer base and he agreed with the former speaker that the electronic gaming age is coming. He said they were seeing a lot of the Native American games running electronics that they can't have -- they're Class II but not licensed by the state, so their customer base is eroding and now they've got this list of 80 mini casinos that are going to open up around them. He said all they were looking for was maybe a marketing tool in which they hope this will be to draw people into their facility. If their bingo customers know that once a night one person within the boundaries of the state of Washington is going to win \$20,000, that's something they can hang their hat on and maybe attract some of their players back, but they're not trying to sneak anything by; they're not trying to open up this big flashy electronic bingo facility. He likes the concept of walking before running -- they want to just see this thing off the ground so they can market themselves better and bring their customers back. He said this is in the state of Washington, these are charities, and the money goes to kids. He said the bottom line was they needed some help. He said the tribes have games the nonprofits can't have and they have 80 mini casinos competing with them.

Acting-Chairman Forrest asked Ms. Winslow to relay the information they heard in the study session yesterday morning about the decline in charitable activities. **Ms. Winslow** said that in the study sessions yesterday, they were informed that a number of the charities had recently been experiencing a decline in the attendance at their bingo halls. In addition to that, their average spend by the bingo players has dropped significantly. Some of the managers and executive directors that were in attendance at the meeting are stating that the players that are attending the bingo games are making statements about spouses and even themselves attending some of the gambling activities that are occurring at the card rooms or mini casinos now. They feel that the activity that's being transferred over to those other establishments is causing the decline in their net return. She believed there would be a request later for the Commission to work with the licensee groups in the charitable non profit arena to analyze the impacts from the various other gaming activities to their particular situation.

Commissioner Heavey asked if they had done any kind of survey. **Ms. Winslow** said they were basing a lot of their comments to them based on their quarterly statistical information. **Commissioner Heavey** said he wasn't suggesting that they lost money; he assumed that was pretty easy to figure out. He just wanted to know if they had done any kind of survey to indicate why.

John Beadle, Seattle Junior Hockey and WCCGA, said the group had written on October 2, 1998 to Mr. Bishop to alert him to the serious decline in revenue in all non profits statewide. The reason they alerted him was because the staff at this time does not have the figures that they have out in the field. Their July/August/September report is not due until the end of October. To put in more specifically, in the top five games in the state which traditionally do not have a problem meeting their net income requirements established by this Commission, at least two are out of compliance for July/August/September. He said they were the number one game in the state and they are on the border first-time-ever even close coming to being out of compliance. It is the worst quarter they've had in 20 years.

Mr. Beadle said his organization has been surveying other halls and each are reporting the same problem. Their customers are telling them they're going to mini casinos. Even though many of them are just opening, they're getting that feedback. In their hall they asked their customers who told them the new card rooms are really nice now and they like going there with their spouses. And the draw is house banked Blackjack which seems to be what the draw is for their customers who are 75 percent female. Considering that and even if there isn't that much direct crossover, the direct crossover is that these women have spouses; their husbands go to the casinos. That affects their pocketbook to come and play bingo the amount of times that they normally do. They have seen a serious, serious decline in the net revenue for the July/August/September and they can't get up and testify that it's all mini casinos; they know that's a false statement. He just feels there is a direct correlation to a part of it.

Mr. Beadle said there are many other things that are going on in gambling that's creating this overall problem, like more scratch'ems from the lottery, out-of-state horse off track betting and mega mania that's going on at the Indian games – those machines are really creating a lot of interest to their players. But in any respect Director Bishop has responded to them already. They requested that a committee be established. They established their committee within their association statewide and then they're also getting somebody that's not in their association to represent the industry that's not controlled by their association and Ms. Winslow's been appointed to meet with them and tentatively they've set up October 22 they set up to meet. He said they need to look at the net income requirements as well because if something is not done about them, they're going to get a double hammer. Last quarter '97 versus this quarter '98 \$3 per person less in bingo. That is significant. \$3 times 1,000 people per day which is a lot of money. He said staff don't have those figures yet because they're not reportable yet and so they will begin to flow in. They would like authority for approval to pass out their letter that they wrote to Director Bishop and make it a matter of record just alerting the Commission that they have a potential problem on the horizon.

Commissioner Heavey said he is receptive to a letter, which was then passed around the table.

Commissioner Herbold asked about the letter written to the Governor and when it went out and if they anticipate a response from them before their next meeting.

Ms. Patjens said they asked for that. The letter just went out this week, but they did tell them that it would be up for final approval November 13th and they would appreciate any comments prior to that.

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Ms. Patjens said Item 7B defines the linked bingo prize providers which is the business who provides the bingo operators with the means to link the bingo prizes together. The rule states that they may provide equipment, supplies and give management advice, but they may not assume the ultimate responsibility for the bingo operation. Item 7C defines the linked bingo prize provider representatives which are similar to the distributor representatives that they currently have. They are just a person who's acting on behalf of the linked bingo prize provider. Item 7D defines the three difference categories of prizes that there are with these games. The first one is a main prize which is prize that is paid out to the first verified winner, then there would be a consolation prize which would be a prize which would be given out at each individual bingo operation, and lastly there is a bonus prize that is the prize that would be given out when a player achieves a certain winning pattern and a predetermined number of calls as the gentleman was speaking about earlier.

Ms Patjens said Item 7E and 7F are licensing requirements and the first deals with the representatives for these businesses and states that a representative can only work for one licensed bingo prize provider – this is the same type of requirement for distributor representatives who can only represent one distributor. Item 7F deals with the licensing to the bingo prize provider. There is a requirement under this section that they must show that they have obtained a bond to cover all linked bingo prize jackpots to help ensure that these prizes will be paid out. **Ms**

Patjens said Items 7G and 7H are the fees that will be charged for this. The fee will be approximately \$3,693 for the linked bingo prize provider and for the representatives \$219 for the first application and then the renewal fee of \$135. Item 7H deals with the fees for identification and inspection service stamps. There will be a stamp that will go on each set of \$250 bingo cards that are used for these games and the cost is 40 cents. This is so the staff can track the sale of cards in case they discover there is any type of defect of something of that nature.

Ms Patjens said Items 7I, J and K are record keeping requirements. One thing under 7I is that the linked bingo prize provider must keep video tapes that show the process of when the numbers are drawn and also any body movements or actions of the person drawing those numbers. Item 7L is another record keeping requirement. Most of the licensees must submit a quarterly activity report to them. Some are on an annual basis, but for the linked bingo prize providers, it would be an activity report on a quarterly basis. **Ms Patjens** said Item 7M is generally they have a requirement that agreements that restrict a licensee's freedom to buy and sell are prohibited; however, under these circumstances, a linked bingo prize provider would be able to require a licensee to buy their cards from them as long as there was a contract that had been approved by the director and then the second part of that rule is that the provider may enter into an exclusive agreement with the manufacturer to provide the bingo paper that's used in the game.

Ms Patjens said Item 7N deals with the information that a licensee must get when they have winner of these games. They're required to get all information including an address of the person who has won. She noted a typographical error on the copy that the commissioner's received under the end of subsection C there are some additional words that don't make a complete sentence and that error was only made on their copies. **Ms Patjens** said Item 7O deals with disposing of the cards for these games. The licensees must retain them for six months unless they have been given permission by one of the Commission's agents to dispose of them prior to that. **Ms Patjens** said Item 7P defines where a bingo game is considered to be located which is where the bingo cards are sold and where the winners are determined. One thing in that section and is also in the first rule on the agenda is that the linked main and bonus prizes can be paid within 48 hours as opposed to being paid immediately. Staff recommends further discussion.

Commissioner Heavey asked if the fees for this activity covers the anticipated staffing requirements. He asked what the total number of additional staff that would be required. **Ms. Patjens** estimated that it would be .5 FTEs for each linked bingo prize provider. They are already making inspections at the bingo operations, so if they have these particular games, there would be some additional work that they would do, so if they have three linked bingo prize providers, which is what they have heard they would probably have, that would be the equivalent of 1.5 FTEs. **Commissioner Heavey** wondered if he added up all the .5 FTEs that are referred to, would he come up with 10 FTEs? **Ms. Patjens** said no. **Commissioner Heavey** said it would be useful to him and others if they had some reference that indicated that that's included in the previous .5. He said now that he knows that, he has no problem, but in the future it would be useful to develop a system that there is a set of rules that in the first one it would say "We anticipate 'x' number of employees to carry out this additional activity." **Ms. Patjens** thanked him for his suggestion and they would do that next month when it was up for final action. **Commissioner Heavey** said they would have to make a determination whether they were going to do this one and three or just leave it open or just have a time limit on the one and three (that's the number of games they are talking about) and after the staff gets experienced in it, then allow them to do as many as they can do. He asked if that was the decision the Commission had to make.

Acting-Chairman Forrest said that does not have to be made today, but that was the issue. **Commissioner Heavey** said he would find it useful for the industry members to give some justification for what it is they want to do which would be to have the number of linked bingo games that they think the market will bear and give the Commission some information along those lines and he would appreciate if the staff would respond to that with what effect that not only has the game itself, but on the enticement to increase gambling activity for people whether they are increasing the market place – the number of players – or whether they are just simply bringing them back into the halls. **Director Bishop** said the staff will attempt to do that. **Commissioner Heavey** said they may not be able to do that, or it may be something that they could discuss in the study committee that they have talked about. **Director Bishop** said the best information for that would be from the individual halls themselves once they get a chance to look at this to see if they are getting back their customers or any increase in customers, possibly where they're coming from. **Commissioner Heavey** asked if it would be too costly to try to

do some kind of semi-scientific survey to find out what's happening to these players – why they're going somewhere else, some sort of market analysis. And if they're going somewhere else, where they're going and why. **Acting-Chairman Forrest** suggested the association could supplement the kind of anecdotal information they have so far. Anything more specific if it's feasible, they would be glad to hear.

OTHER BUSINESS GENERAL DISCUSSION AND COMMENTS FROM THE PUBLIC

Acting-Chairman Forrest asked if there were any discussion or comments from the audience.

George Teeny, New Phoenix card room, La Center, said he urges the Commission and staff to do whatever they can for the non profits if their business is suffering in the bingo arena. He said, however, that he took some umbrage with what they pointed out, making a direct correlation to mini casinos and the drop of the revenue. He said it was easy to point a finger at something and not really know. He said if someone walks into any gaming establishment, be it tribal or enhancement program, or bingo people, they would probably see people that play in all forms of gaming, but by a general rule at least from what the ASA has said is that there's about a seven to eight percent play-over from one type of game to a different type of game. What he meant by that was for example, about seven or eight percent of poker players will play pit games, maybe slot machines if they were table player such as blackjack. He said that was a rough generalization, but this is the generalization that they have come up with.

Mr. Teeny said that it was his opinion (he acknowledged he had his biases) he didn't believe that the mini casinos are attacking those numbers as strongly as they inferred earlier. He said he appreciated John Mr. Beadle's modification of what he initially said saying that they know that mini casinos are not the only problem that is facing the bingo halls where the revenue is going, but he did initially take umbrage to it. He said if they looked at a more direct correlation, he thought maybe the electronic machines that the tribes are now offering the higher pay-outs, he thought that that probably has some bearing and maybe a more pertinent bearing than the "mini-casinos". He said for him, gaming is a little bit softer in the summer than during the winter. He said he didn't know if the charities also feel that so maybe last quarter there's that rubber band effect.

Mr. Teeny also thought that when the tribes initially opened up – and this he said was more a question than a statement – did the charities feel a blow when the tribes opened up initially and did it not rubber band back to where they got their customers back or at least a percentage of their customers back. He said marketing is key for him and for others in the business – marketing is key and their advertising budget is somewhere between \$10 to \$50,000 a month. He said he didn't know if the charities go that route or not or if they can advertise. He did not know, but unless they can show hard facts, he did not appreciate the initial remarks that were made about the "mini-casinos" being the problem for them and he cautioned them to be careful what they said.

Mr. Kaufman said he knows that Mr. Teeny has a vested interest; they all do – in gaming. He said that it was important to understand what is going on in eastern Washington, particularly. He said four years ago, they had average crowds of about 385 people per session. The crowd count right now is averaging 200 per session. He said they should figure that out on a percentage of what they have lost ground. They are losing at the machine gaming, at the tribal gaming. They have over 3,000 slot machines within a 60-mile radius of Spokane and now they're faced with a new casino that's going to be 10 minutes from their door with the Kalispels opening within a year. They have about eight mini-casinos that have opened in Spokane County. They had leveled out in their drop until the mini-casinos opened. When the mini-casinos opened, they have lost another 10 percent of their crowd from a year and a half ago. He said they have gone from a \$650,000 net to a net that may be \$450,000 this year and that's with excellent management. He said they've lost almost 50 percent of their crowd and they've maintained 65 percent of their net. They're having trouble meeting net return requirements by the state – all those dollars are going into services for youth and they are struggling. He said what they are looking forward to right now is another tribal casino 10 minutes from their doors that's off site and not even on previous reservation land. He said when he walks into a mini casino he sees bingo players. He sees bingo players cars that are now driving to the mini casinos to play.

Commissioner Ludwig asked if Mr. Kaufman is suggesting that the Commission solve this problem for the bingo industry. **Mr. Kaufman** said no, because the Commission didn't cause the problem per se, but he was asking for the Commission to understand what the non profits are facing in eastern Washington as compared to western Washington due to the one not allowing machines and other allowing them.

Senator Prentice said one of the things that is obvious to her is as they keep ratcheting up gambling activities of one sort or another, she thought they were pretty well maxed out. She said she has learned in her life is that today isn't forever. Spokane has seven casinos and many people don't like that, but the fact is that not all of those are going to make it – that's the market. She said a couple might succeed and things are going to be leveling off. She said if they are going to take umbrage, she wonders how the Kalispels can be blamed when they haven't even been approved yet. Everybody's anticipating this big hit. The thing that she's seen in her own community where they have card rooms and casinos close by is that folks that have been loyal to certain games – somebody called it the rubber band effect – came back and they want to play where their neighbors are. They want to go to a place where people dress up a little more – they go to the tribal casinos if they want full blown gambling – they leave the state and they go to Nevada, but she thinks what they are seeing is a constant readjustment. Every group that comes in will point to another so that's constant in this Commission. She said Commissioner Heavey and she have been on the Commission about the same length of time and she's seen it bounce back and forth. She said she would have liked to have seen the Commission help the bingo community when they thought they were going to. It didn't happen, but she didn't know that increasing levels of game is going to help anybody because eventually they will run out of people who are going to want to play in this state

Rob Saucier, Mars Hotel and Casino in Spokane, said he wanted to point out what's happening in the larger picture of this. Commissioner Herbold had mentioned earlier about what's happening in terms of the ratcheting up from \$500 to \$750 on the pull tab prize. His group a number of years ago said that they could not compete with the tribal casinos; therefore, they went to the Legislature and got the laws changed and now their group is able to compete. The charities are doing the same thing as well. They have all had a vested interest from 1973 to now – each had their purpose, but what happened was when the first tribal casinos opened, all of a sudden it raised the bar so high that charities are finding it difficult to compete not only with the things such as satellite bingo and electronic games and things like that, but they are still limited by the Legislature to three days per week yet they have buildings that they own seven days a week so what's happening is that there is a ratcheting up.

Mr. Saucier said the biggest change that was going to occur that many in the industry fear is going to change the landscape dramatically is the fact that the tribes are very close to final negotiations on a Class III machine in this state. In Spokane, in addition to the tribes without compacts that have Class III machines, there is a Idaho tribe that has Class III machines. They are in a rural area and they have over 1,000 machines and they are very busy. The machines are going to change the landscape of this business totally. When Carnival Cruise Lines can come in a build a casino, as Don mentioned, 10 minutes from their doorstep, and have not only all the games that they are entitled to through the tribal compacts are they are today, but have Class III machines, it is a completely different world. Carnival Cruise Lines will only have to pay 4 percent and in Spokane they are paying 20 percent. What is going to happen is they are going to find that people are going to hearing these same stories over the next year or two because there is a ratcheting up.

Mr. Saucier said that the issue for the Commission, to the extent that it can within its power, is to try to maintain that equality. The expansion of gambling in Washington has already happened. There are still Legislators who believe that this is a non-gambling state, but that's not true and the last straw as far as he was concerned was the keeping out the machines, but now the Class III gaming devices are on their doorsteps, it's going to change dramatically what's going to happen in this state. All of those who have had that vested interest before are going to want to hold their ground if they can.

Commissioner Heavey said that, from his perception, there is an artificial atmosphere where the Legislature has approved, piece-meal, certain types of activities because when they approve one type of activity it has as effect on another type activity and they approve that activity and then it has an effect on another type of activity. The comment heard continually is that everyone wants a "level playing field." There will never be a level playing field between the Indian Nations and the states, because there are two governmental bodies that are working and one of them is granted powers by another governmental body and that governmental body does what it can and then

the Indian Nations have an obligation to do what their funds as the Congress says they should do which is use it for tribal governmental purposes. He's not sure that they do that, but he does know based on his experiences, there's not a whole lot of monitoring to see if it is done. The federal government just says they should do it and then the Indian Nations decide what they're doing is for a governmental purpose or not a governmental purpose – there's not a whole lot of monitoring by the federal government so it's not possible to level that playing field.

Commissioner Heavey said the other arena was where the state government has a jurisdiction and they're not creating a level playing field because they're trying to balance interests. The only way to create a level playing field is to say gambling is legal in the state of Washington, have at it. That's the only way and then it depends on the market. But there are different rules for each segment of the gambling industry, so the Commission cannot accomplish what the people are asking them to accomplish when they are not given the opportunity to compete openly. For example, card rooms can do a lot of things the bingo people can't do. They had to pass a special rule so they could have busses to bring people to their games. He said he didn't know of any prohibitions in the banked card games that says they can't go out and bring people to their card games. Maybe there should be a rule like that the playing field is level. They have betting limits. There's no rule that says a pot shall not exceed \$750, but there is a rule that says a punch board can't be more than \$750 and the tickets can't cost more than a buck.

Commissioner Heavey said all of these rules create an artificial atmosphere and then the Commission is asked to make it "a level playing field. So the only way they will ever solve this problem is to say gambling is okay. So they will let people do whatever they want to and then provide services for those who become addicted to it and tax it to the extent it can be taxed to benefit the public and let them use whatever gambling device they want to, so long as it can be properly regulated.

Commissioner Heavey said he is not advocating this, but this is the only way they can accomplish what people are asking them to accomplish. He said he did not think the political atmosphere in the state of Washington would support what's necessary to "create a level playing field." Slot machines have been turned down overwhelmingly on two occasions. And now they are in a negotiation that is closer than being a first cousin to slot machines. He said he did not know how to solve the problem and he thought the Legislature and people of the state of Washington ought to address it.

Commissioner Ludwig reminded the audience that the Commission is not a policy-making commission. The Commission's mission is to license and regulate and they are getting off into an area of what they can do policy-wise and he thinks it is totally irrelevant.

Director Bishop the meeting will be starting at 10:00 on Thursday, November 12, 1998, instead of the usual time of 1:30. **Ms. Patjens** announced that next week, at 1:30 p.m on October 14, 1998, at the Days Inn, Spokane, there will be a meeting to take a final vote on the Kalispel Compact. If they wish to make comments but are unable to attend the meeting, they can submit written comments. They need to receive those by noon on Tuesday so there is time to copy them and make sure that the Commissioners can have them. She said they could get business cards with her name and address so they can send them to her. On Thursday, October 15, there will be a public hearing beginning at 9:30 a.m. at the same location, there will be a public hearing on some proposed compact amendments.

Ms. Patjens noted that the newspaper incorrectly stated that the information was "accidentally" released at yesterday's meeting; however, that was not an accident. The announcement about the tentatively scheduled meeting was made so that the licensees and everyone could note the date and attend if they wished. The proposed compact amendments have not been forwarded on to the Commission or to the Legislature which is the process that they follow for both compacts and compact amendments, so at this time they can't give a lot of details about what that agreement is. The information about the friendly lawsuit will be on their web page which can be found at www.wa.gov/gambling/wsgc. More of the terms of the agreement can be found there. She said there were some questions about the friendly lawsuit yesterday in the study group session about how this all came about. It's been an ongoing since 1994 and at that time there was a meeting called the Centennial Accord which was between the tribes and Governor Lowry and Attorney General Christine Gregoire and one of the

outstanding issues that they had had was the whole issue about slot machines and whether they're negotiable in the state.

Ms. Patjens said that under the federal law, the Indian Gambling Regulatory Act, if a tribe disagreed with the state in negotiations, they could go to federal court and sue the state for bad faith. When a couple of tribes did that the state asserted the Eleventh Amendment saying they were a sovereign government too and they couldn't sue Washington unless they agree to it. That was something that was being asserted across the nation and there was a case that went to the U. S. Supreme Court where the U. S. Supreme Court agreed that the state could assert the Eleventh Amendment. Because of that there has been an issue about slot machines and whether they were negotiable and the result of the Centennial Accord was that they would go to court and ask to have that question resolved. So that's how they got into the friendly lawsuit. It is regular compact amendment which means that it will be voted on by the five person Commission and this is also the type of vote where the Commission's four ex officio members have a vote. She said the article in the paper said it had been approved. What the staff has committed is bringing this compact amendment forward so it does still have the formal vote to go through.

Ms Patjens said that the other thing that will be happening is on Wednesday, November 11, 1998, there will be another opportunity for the public to testify. That hearing will be in the city of SeaTac at the DoubleTree and that will start at 1:30 p.m. *[time was later changed to 9:30 a.m.]* so that takes care of hearings on both sides of the mountains to give as many people as possible the opportunity to comment. Written comments can be submitted as long as they are received by the first week in November so they can send those to the Commissioners in advance of the meeting on November 11th. Next month's meeting is at 10 a.m. *[time was later changed to 9:30 a.m.]* and then there will be more discussion about the friendly lawsuit at 1:30 p.m. The study group sessions have to be canceled. **Commissioner Heavey** said it was his understanding is that they were going to do the regular business of the Commission and then at 1:30 p.m. they will start the discussion on the amendments to the compact. The compact and possible vote, if it's a majority of the Commission including ex officio members who want to vote at that time.

Acting-Chairman Forrest said they anticipate quite a bit of public interest and quite a few who want to speak. The time limits are going to be tight and he urged everyone strongly to put their thoughts whatever they may be, in writing and get it to the Commission because the time to speak is going to be tightly controlled. He said the commissioners will read the material and have time to reflect and this is better than just having spoken material on the day of the hearing when the 15th speaker comes up on a long afternoon of being hurried through testimony.

Commissioner Herbold said that both the newspaper article and Mr. Beadle's letter referred to there being a gag order. She wondered if there was in fact a court-ordered gag order with respect to the negotiated settlement of the friendly lawsuit. **Ms. Patjens** explained that it's not a court order; it's pretty typical when they've been in compact negotiations that they don't talk about the details of them until they are forwarded on. It's very similar to how it is in a personal injury case or anything else where they don't talk about specifics about how settlements are going back and forth until they've reached resolution. **Commissioner Herbold** clarified that it was an agreement between the parties and **Ms. Patjens** and **Director Bishop** confirmed that.

Acting-Chairman Forrest adjourned the meeting and announced that the next meeting would be in Vancouver.

MEETING ADJOURNED

Minutes submitted to the Commission for approval,

Susan D. Yeager, Executive Assistant